

CONSULTATION PAPER

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Enhancements to the Regulatory Regime Governing REITs

MAS

Monetary Authority of Singapore

PREFACE

1 The Property Fund Guidelines (“REIT Guidelines”) were last revised in October 2005. Since then, the Singapore REIT market has continued to witness robust growth with the number and market capitalisation of REITs more than doubling. As of 28 February 2007, there are 15 listed REITs with an aggregate market capitalisation of more than S\$25 billion. There is also a healthy pipeline of proposals seeking to securitise real estate located in the Asia-Pacific region.

2 To keep pace with market development, MAS is proposing amendments to the REIT Guidelines. In formulating the proposals, MAS held preliminary discussions with REIT managers, REIT trustees as well as their legal advisors.

- 3 The proposed amendments serve to:
- (i) establish measures to safeguard the interests of unitholders;
 - (ii) provide greater clarity and flexibility on investment guidelines;
 - (iii) rationalise guidelines where compliance costs exceed benefits; and
 - (iv) introduce a licensing framework for REIT managers under the Securities and Futures Act (“SFA”).

Request for Comments

4 MAS invites interested parties to give their views and comments on the proposals set out in this consultation paper. Comments may be submitted to:

Corporate Finance Division
Securities and Futures Supervision Department
Monetary Authority of Singapore
10 Shenton Way
MAS Building
Singapore 079117

Email: reits@mas.gov.sg

Fax: (65) 6225-1350

MAS requests that all comments and feedback be submitted by 23 April 2007.

5 Please note that all submissions received may be made public unless confidentiality is specifically requested for the whole or a part of the submission.

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A ESTABLISHING MEASURES TO SAFEGUARD THE INTERESTS OF UNITHOLDERS

1 Enhancing disclosure on short-term yield enhancing arrangements

1.1 Some REIT managers have attempted to use financial engineering to boost short-term yields for REITs to improve their attractiveness to IPO investors.¹ MAS is concerned that the costs of such short-term yield-enhancing arrangements and their negative impact on long-term returns may not be adequately disclosed or understood by investors.

1.2 To ensure that investors are aware of the longer-term effects of short-term yield enhancing arrangements, MAS has been reviewing REIT applications to ensure that all financial engineering arrangements as well as their associated financial effects and risks are prominently disclosed. MAS intends to formalise this practice in the REIT Guidelines and proposes that the following be prominently disclosed whenever forecasts of distribution yields are provided in offering documents, circulars, announcements and marketing materials of a REIT:

- (i) all financial engineering arrangements that may result in short-term yields being materially higher than what they would otherwise have been; and
- (ii) the associated risks as well as an analysis of how the arrangements would affect current and future yields. The analysis should include a disclosure of the forecast yields without such arrangements.

Q1: MAS seeks your views on the proposed enhanced disclosure requirements set out in paragraph 1.2.

MAS also welcomes suggestions on any other disclosures that should be required to apprise investors of the financial effects and risks associated with short-term yield enhancing arrangements.

¹ Examples of such short-term yield enhancing arrangements include deferred payment arrangements, step-up interest rate swaps, dividend waivers, and dividend or income guarantees.

2 Disallowing arrangements at IPO that entrench REIT managers

2.1 There have been attempts by REIT managers to entrench themselves through arrangements such as long-term management contracts and high termination fees. Although various arguments have been put forth to justify such entrenchment arrangements, MAS is concerned that these arrangements would impede the market for corporate control and has discouraged their use in recent IPOs.

2.2 MAS recognises that in borderline cases, it can be difficult to judge whether the arrangement is material or is based on legitimate commercial reasons rather than being intended to entrench the manager. Given that REITs is still a relatively new market, MAS considers it to be more appropriate that the proposal to adopt such arrangements be put to unitholders in a specific resolution at a general meeting rather than being “bundled” together with other considerations at the time of the IPO. This allows unitholders to focus specifically on whether such arrangements are based on legitimate commercial grounds and provide appropriate compensation for the efforts of a manager should the manager’s services be terminated.

2.3 MAS proposes that any arrangements along these lines should be put to shareholders post-listing, subject to the following conditions:

- (i) the arrangements are specifically approved by a majority of unitholders at a general meeting, with the REIT manager and its related parties abstaining; and
- (ii) the circular to unitholders includes an opinion from the REIT trustee that such arrangements are on normal commercial terms and are not prejudicial to the interests of unitholders.

Q2: MAS seeks your views on the decision to disallow the use of arrangements at IPO that entrench the manager of the REIT.

MAS also seeks your views on the proposal to allow the introduction of such arrangements post-listing, subject to the conditions set out in paragraph 2.3.

3 Disallowing discounts to institutional investors at IPO

3.1 MAS has received proposals from REIT managers to offer discounts to institutional investors for subscribing to substantial amounts of IPO units.

3.2 REIT managers have argued that such discounts help to establish a stable base of large investors by compensating them for committing to subscribe for substantial amounts of IPO units. However, MAS is of the view that such differential pricing would disadvantage retail investors. To maintain the principle of fair and equitable treatment of all investors in terms of pricing, MAS has discouraged discounts to institutional investors at IPO and intends to formalise this position in the REIT Guidelines.

Q3: MAS seeks your views on the decision to disallow discounts to institutional investors at IPO.

MAS also seeks your views on whether there are any other arrangements which may compromise the principle of fair and equitable treatment of all investors.

4 Safeguards for distributions to unitholders

4.1 MAS has received proposals for REITs to pay dividends in excess of current income out of, for example:

- (i) unrealised surplus from the revaluation of the REIT's properties; or
- (ii) anticipated income from offshore property holding vehicles which are awaiting tax clearance from foreign tax authorities.

Such distributions will be funded through borrowings or other sources of cash such as rental deposits.

4.2 One of the main advantages of trust structures (i.e. REITs and business trusts) over corporate structures is that dividend distributions

may be made out of cash flows, regardless of whether a trust is generating accounting profits. However, distributions from unrealised or anticipated income may affect the ability of the REIT to meet its debt obligations when they fall due, especially when the REIT is only able to fund such distributions from borrowings instead of business operations.

4.3 Business trusts (“BTs”) are permitted to make such distributions to unitholders, subject to a certification by the board of directors of the trustee-manager (“TM”) that the TM will be able to pay, from the trust property of the BT, the liabilities of the BT as they fall due. In addition, the TM will be required to disclose the distribution policy of the BT and the measures and assumptions for deriving the amount available to be distributed from the trust property.

4.4 To ensure that the long-term development of REITs is not compromised, MAS proposes to subject REITs to certification requirements similar to those for BTs where a proposed dividend exceeds the current income of the REIT. Such certification is to be made by the manager of the REIT, in consultation with the trustee, at the time the dividend is declared.

Q4: MAS seeks your views on the proposal to allow a REIT to pay dividends in excess of current income, if the REIT manager:

- (i) certifies, in consultation with the trustee, that the REIT will be able to pay, from its trust property, its liabilities as they fall due; and
- (ii) discloses its distribution policy as well as the measures and assumptions for deriving the amount available to be distributed from the trust property.

MAS also welcomes suggestions on any other measures to ensure that the long-term development of REITs is not compromised through such distributions to unitholders.

B PROVIDING GREATER CLARITY AND FLEXIBILITY ON INVESTMENT GUIDELINES

5 MAS proposes to enhance and provide greater clarity on the investment guidelines for REITs in the areas set out below.

6 Increasing the minimum threshold for investment in real estate

6.1 Currently, the REIT Guidelines require 35% of a REIT's assets to be invested in real estate and at least 70% of a REIT's assets to be invested in real estate and real estate-related assets (e.g. shares of property companies).² Up to 30% of a REIT's assets may be invested in other assets such as cash, listed or unlisted debt securities, government securities and/or listed shares of companies not in the real estate business.³

6.2 The 35% threshold for investment in real estate is much lower than similar requirements in the US (75%), the UK (75%) and Hong Kong (100%). To align with other jurisdictions and ensure that REITs remain a vehicles that invest substantially in income producing real estate, MAS proposes to require REITs to invest at least 75% of their assets in incoming producing real estate. Up to 25% of the REIT's assets may be invested in other permissible investments specified in the REIT Guidelines, such as real estate-related assets, cash, government securities, listed or unlisted debt securities, or listed shares of companies not in the real estate business. Investments in uncompleted property development activities are subject to the 10% limit in paragraph 7.1(e) of the REIT Guidelines.

<p>Q5: MAS seeks your views on the proposal to require REITs to invest at least 75% of their assets in income producing real estate.</p>
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² REIT Guidelines, paragraph 7.1(a), (b).

³ REIT Guidelines, paragraph 6.

7 Removing the 5% Single Party Limit (“SPL”) for investments in real-estate related securities

7.1 Currently, not more than 5% of a REIT’s assets can be invested in securities issued by a single party (the “5% SPL”).⁴ This diversification rule is modelled after rules applicable to conventional equity or bond unit trusts.

7.2 MAS proposes to remove the 5% SPL for investments in real estate-related securities. Given that a REIT’s real estate holding, which usually makes up most of the REIT’s assets, is not subject to diversification rules, requiring diversification for the REIT’s real estate-related securities investments, which would at most constitute 25% of the REIT’s assets (if the proposal in paragraph 6.2 is adopted), is unnecessary and impedes investment flexibility. However, MAS wishes to emphasise that investments in real estate-related assets should not be made with a view to circumvent the letter or spirit of the various investment guidelines in the REIT Guidelines.

7.3 MAS will be retaining the 5% SPL for investments in non-real estate-related securities as REITs should not have concentrated investments in such assets.

Q6: MAS seeks your views on the proposal to remove the 5% SPL for investments in real estate-related securities.

8 Allowing joint ownership through investments as tenants-in-common

8.1 Under the REIT Guidelines, REITs can only invest in real estate as joint owners through acquiring shares or interests in unlisted SPVs.⁵

⁴ REIT Guidelines, paragraph 7.1(f).

⁵ REIT Guidelines, paragraph 6.4.

8.2 As there are valid commercial reasons for REITs to invest directly in properties instead of through SPVs (e.g. the waiver of stamp duties for the transfer of properties into REITs only applies if REITs invest directly in properties and not through SPVs), MAS proposes to allow REITs to hold interests in real estate directly as tenants-in-common, subject to the safeguards in the REIT Guidelines on joint ownership (which includes veto rights over key operational issues and entitlement to a pro rata share of distributable profits in the jointly held property).

Q7: MAS seeks your views on the proposal to allow REITs to hold interests in real estate directly as tenants-in-common, subject to the safeguards in the REIT Guidelines on joint ownership.

9 **Revenue from non-rental operations**

9.1 There has been a gradual increase in the number of REITs holding more diverse assets such as service residences, hospitals and hotels. This may entail a REIT earning revenue from non-rental sources (e.g. food and beverage business in hotels).

9.2 In order to allow a REIT to earn non-rental income, and yet preserve the fundamental nature and characteristics of REITs as largely passive property-owning investment vehicles, MAS has adopted the position of not allowing more than 10% of a REIT's revenue to be derived from sources other than:

- (i) rental payments to be made by tenants of properties held by the REIT; and
- (ii) interest, dividends, and other similar payments from SPVs and other permissible investments held by the REIT.

MAS intends to formalise this position in the REIT Guidelines.

9.3 Investment vehicles earning substantial non-rental income could be structured as business trusts or offered as a hybrid security where a business trust or corporation with non-passive sources of income is stapled to a REIT.

Q8: MAS seeks your views on the decision to impose the requirement set out in paragraph 9.2.

MAS also seeks your views on the evolving investment strategies in the marketplace and whether the structures proposed at paragraph 9.3 can adequately accommodate them.

C RATIONALISING GUIDELINES WHERE COMPLIANCE COSTS EXCEED BENEFITS

10 MAS proposes to rationalise the REIT Guidelines in areas where feedback from the industry has revealed that compliance costs may outweigh the resulting benefits to investors, or where the REIT Guidelines overlap with rules administered by SGX.

11 Independence of valuers

11.1 Valuers of a REIT's assets are not allowed to receive payments of more than \$200,000 in a financial year for services performed for any party whom the REIT is contracting with.⁶ This requirement is to ensure that the valuer's relationship with such parties would not interfere with the valuer's independence.

11.2 Following industry feedback that the \$200,000 threshold may be too low given the limited pool of qualified valuers in Singapore, MAS would like to clarify that the \$200,000 threshold applies only to parties who are buying or selling assets to the REIT. If concerns still remain, MAS welcomes suggestions on whether the S\$200,000 threshold should be raised, and if so, to what level.

Q9: MAS seeks your views on whether the \$200,000 threshold on payments to valuers, made by parties who are buying or selling assets to the REIT, should be raised, and if so, to what level and the rationale thereof.

MAS also welcomes alternative proposals. These should be accompanied by an explanation on how the independence of the valuer would be ensured.

⁶ REIT Guidelines, paragraph 8.3(a).

12 Trustee's responsibilities in interested party transactions ("IPTs")

12.1 Presently, two independent valuations are required for all acquisitions from or disposals to interested parties. For IPTs that do not require unitholders' approval (i.e. value of the IPT is less than 5% of the REIT's NAV), the trustee is required to provide a written confirmation that the transaction is carried out on normal commercial terms and is not prejudicial to the interests of unitholders if:

- (i) the acquisition price is more than the lower of the two valuations; or
- (ii) the disposal price is less than the higher of the two valuations.⁷

12.2 In response to market feedback that the average of two independent valuations represents a fair and reasonable price, MAS proposes to require the trustee's confirmation only when

- (i) the acquisition price is more than the **average** of the two valuations; or
- (ii) the disposal price is less than the **average** of the two valuations.

Q10: MAS seeks your views on the proposal to make reference to the average of the two valuations instead of the lower or higher valuation (for acquisitions and disposals respectively) in determining whether the trustee's confirmation is required for an IPT that does not require unitholders' approval.

⁷ REIT Guidelines, paragraph 5.1(e).
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13 **Trustee's duties in reviewing contracts**

13.1 REIT trustees are required to ensure that all contracts entered into on behalf of the REIT are legal, valid, binding, and enforceable by or on behalf of the REIT in accordance with its terms.⁸

13.2 To ensure that legal reviews are carried out on a cost-effective basis and unnecessary costs are not incurred in engaging legal assistance to provide enforceability opinions for all contracts to be entered into by the REIT, MAS proposes to clarify that the requirement in the REIT Guidelines for trustees to review contracts applies only to material contracts which

- (i) constitute 5% or more of the REIT's gross revenue; or
- (ii) are not entered into in the ordinary course of business (such as acquisitions and borrowings).

13.3 MAS wishes to emphasize that the above position does not diminish the liabilities of the trustee under common law. The trustee will still need to discharge fully its responsibility under common law, and exercise discretion in conducting proper due diligence to ensure that the rights and interests of the REIT and its unitholders are adequately safeguarded.

Q11: MAS seeks your views on the proposed clarification to the requirement for trustees to review contracts as set out in paragraph 13.2.

14 **Desktop valuations of real estate**

14.1 A desktop valuation of all the real estate assets of a REIT has to be conducted prior to the issuance of new units in the REIT post-IPO if the last valuation is more than six months old.⁹ This is in addition to the

⁸ REIT Guidelines, paragraph 3.2(b).

⁹ REIT Guidelines, paragraph 8.2.

requirement for REITs to conduct a full valuation of their real estate assets at least once annually.¹⁰

14.2 The desktop valuation requirement is costly for REITs with portfolios containing numerous properties. Given that valuations may not fluctuate materially within a year and that new units issued are priced based on the prevailing market price of REIT units, MAS is of the view that annual valuations should suffice, and proposes to remove the desktop valuation requirement if the REIT manager confirms that there is no material change in the value of the properties since they were last valued.

Q12: MAS seeks your views on the proposal to remove the requirement for a desktop valuation of all the real estate assets of a REIT to be conducted prior to the issuance of new units in the REIT post-IPO if the last valuation is more than six months old, as long as the REIT manager confirms that there is no material change in the value of the properties since they were last valued.

15 **Independent expert certification for IPTs**

15.1 Where the value of a proposed IPT is equal to or greater than 5% of a REIT's NAV, the REIT Guidelines require an independent expert to opine on whether the transaction is carried out on normal commercial terms and is not prejudicial to the interests of unitholders.¹¹ This is in addition to the requirement for two independent valuations to be conducted on the real estate that is the subject of the transaction.¹²

15.2 MAS proposes to remove the requirement for an independent expert to render an opinion. As the independent expert is usually not a professional valuer, its opinion is often based on a review of the valuation reports issued by the two independent valuers and may not add

¹⁰ REIT Guidelines, paragraph 8.1.

¹¹ REIT Guidelines, paragraph 5.2(b).

¹² REIT Guidelines, paragraph 5.1(c).

significantly to investors' evaluation process. Furthermore, there is already a safeguard in the REIT Guidelines that requires IPTs to be transacted at a price not more than the higher of the two assessed valuations for acquisitions and not less than the lower of the two assessed valuations for disposals.

Q13: MAS seeks your views on the proposal to remove the requirement for an independent expert to opine on a proposed IPT where the value is equal to or greater than 5% of the REIT's NAV.

16 **Unitholders' approval of IPTs**

16.1 Under the REIT Guidelines, unitholders' approval is required for IPTs with values equal to or greater than 5% of NAV in a financial year. All transactions with the same interested party during the financial year would be aggregated to ascertain if the 5% threshold is reached. Once the 5% threshold is reached, the REIT Guidelines also require unitholders' approval to be obtained for every subsequent transaction with the same interested party during that financial year.¹³

16.2 This requirement differs from that imposed under the SGX Listing Manual. SGX allows for a "reset" once shareholders approve a transaction as it is set out in the SGX Listing Manual that "a transaction which has been approved by shareholders, or is the subject of aggregation with another transaction that has been approved by shareholders, need not be included in any subsequent aggregation."¹⁴ This means that once a REIT has obtained shareholders' approval to enter into transactions with an interested party with a total value equal to or greater than 5% of its NAV during a financial year, the REIT need not obtain unitholders' approval for subsequent transactions with that interested party for the remaining period of that financial year unless the total value of those subsequent transactions constitutes 5% or more of its NAV.

¹³ REIT Guidelines, paragraph 5.3.

¹⁴ SGX Listing Manual, rule 906(1b).

16.3 REITs currently have to comply with the IPT requirements under the REIT Guidelines as they are more stringent than the SGX Listing Manual. To minimise administrative difficulties, MAS proposes to remove this requirement in the REIT Guidelines so that REITs will only need to comply with SGX's listing rules.

Q14: MAS seeks your views on the proposal to remove the aggregation rule in the REIT Guidelines for transactions with the same interested party.

17 **Redefining the scope of interested party and its related terms**

17.1 The current definitions of “interested party”, “controlling unitholder” and “associate” in the REIT Guidelines are different from the definitions in the SGX Listing Manual, and may result in complications when applied in practice.

17.2 MAS proposes to substantially align the definitions in the REIT Guidelines with that in the SGX Listing Manual. The proposed alignments would include:

- (i) replacing the list of entities¹⁵ connected to the manager and controlling unitholder with the term "associate", which refers to any subsidiary, holding company, subsidiary of such holding company or a company in which any of the foregoing companies together have an interest of 30% or more, directly or indirectly (see Appendix A for an illustration); and
- (ii) removing a sponsor, who does not have a controlling interest in the REIT or is not associated with the manager or the controlling unitholder, as an interested party.

¹⁵ Entities connected to the manager and controlling unitholder under the REIT Guidelines include their holding companies, subsidiaries, associated companies (20% to 50% interest), fellow subsidiaries and associated companies [REIT Guidelines, paragraph 1.2(f)(vii)].

17.3 MAS proposes to retain the manager and trustee for the REIT, as well as their associates as interested parties under the REIT Guidelines as they are not included in the definition under the SGX Listing Manual. Appendix B provides a comparison of the current and proposed definitions.

Q15: MAS seeks your views on the proposed changes to the definitions of “interested party”, “controlling unitholder” and “associate” as set out in Appendix B.

D INTRODUCING A LICENSING FRAMEWORK FOR REIT MANAGERS UNDER THE SECURITIES AND FUTURES ACT

18 Draft legislative amendments

18.1 The majority of respondents to MAS' last consultation on the REIT Guidelines agreed with the proposal to licence REIT managers under the Securities and Futures Act ("SFA"). To give effect to the licensing regime for REIT managers, we propose to amend the SFA to define REIT management as a regulated activity under the Second Schedule. To support the amendments to the SFA, there will also be amendments to the Securities and Futures (Licensing and Conduct of Business) Regulations and Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations. These amendments will set out the capital requirements and licence fees for REIT managers, as well as provide for a transitional period for existing industry participants.

18.2 The draft legislative amendments are attached as follows:

- Appendix C – Draft Securities and Futures Act (Amendment of Second Schedule and Other Provisions to Act for REIT Management) Order 2007
- Appendix D – Draft Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2007
- Appendix E – Draft Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2007

Q16: MAS seeks your views on the draft legislative amendments.

19 **Proposed transitional arrangements for REIT managers**

19.1 Managers of REITs which are already listed on the date that the legislative amendments come into effect (herein referred to as “existing REIT managers”) will be migrated to the licensing regime. During the transitional period, which is envisaged to last for six months, existing REIT managers will have to furnish particulars on the company, its shareholders, directors and management¹⁶. The criteria for REIT managers as set out in the REIT Guidelines will continue to apply to these managers. These requirements will eventually be migrated to MAS’ Guidelines on Criteria for the Grant of a Capital Markets Services (CMS) Licence and Representative’s Licence [Guideline No. SFA 04-G01].

19.2 Managers of REITs which are preparing for a listing on SGX will need to take into account the time required to apply for and obtain their licences. MAS will process licence applications from new applicants on a first-in, first-served basis. The managers of such REITs are advised to consult with MAS on potential licence applications as early as possible during the transitional period.

20 **Proposed examination and transitional arrangements for representatives**

20.1 It is intended that all professional employees¹⁷ of REIT managers will hold a CMS representative’s licence and meet minimum entry and examination requirements similar to those applicable to existing CMS representatives¹⁸ conducting other regulated activities.

20.2 In recognition of the specialised nature of REIT management, MAS proposes to introduce a new module to the Capital Markets and Financial Advisory Services Examination (“CMFAS Exam”). The

¹⁶ As per Form 1 of the Securities and Futures (Licensing and Conduct of Business) Regulations.

¹⁷ Professional employees refer to employees who are engaged in the investment management, asset management, financing, marketing and investor relations functions on behalf of the REIT manager.

¹⁸ As spelt out in MAS’ Notice on Minimum Entry and Examination Requirements for Representatives of Holders of Capital Markets Services Licence and Exempt Financial Institutions [MAS Notice No. SFA 04-06].

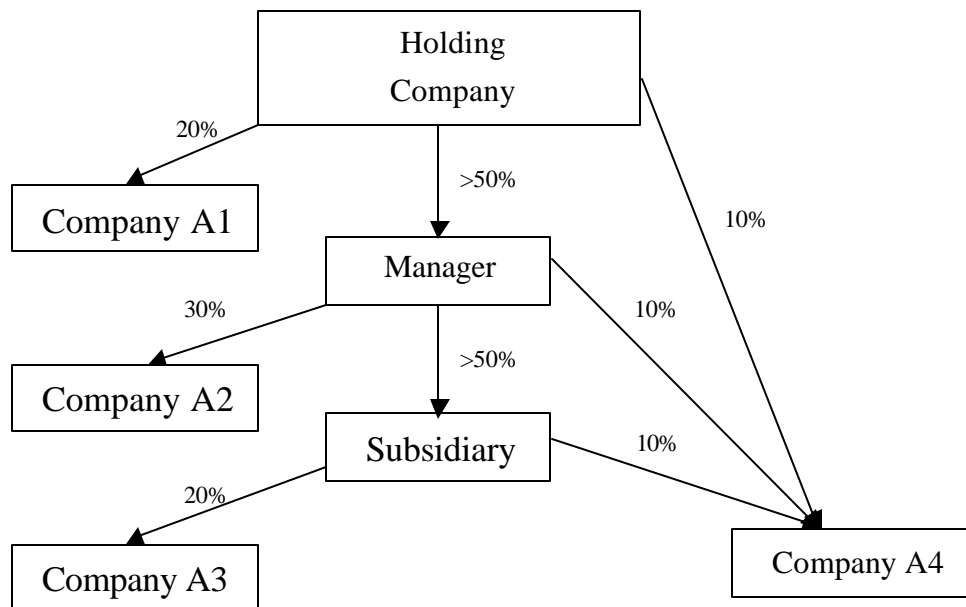
proposed CMFAS Exam for representatives of REIT managers is envisaged to be administered in the form of a single paper covering both product and regulatory knowledge relevant to REIT management. The coverage of the CMFAS Exam is being developed with the Asian Public Real Estate Association and is aimed at ensuring that new entrants possess basic skills and knowledge in managing a REIT within the local regulatory environment.

20.3 To ease the transition for existing REIT managers, MAS will waive the examination requirement for professional employees of existing REIT managers. These individuals will instead undergo a non-examinable course covering the same topics as the proposed CMFAS Exam. The non-examinable course will be made available during the six months transitional period and will be conducted by the Institute of Banking and Finance or run in-house by suitably qualified persons. Notwithstanding the waiver from examination requirements, all professional employees of existing REIT managers are expected to meet MAS' Guidelines on Fit and Proper Criteria [Guideline No. MCG-G01] and will be required to furnish their particulars¹⁹ to MAS for licensing within the six-month transitional period, after they have completed the non-examinable course or passed the CMFAS Exam.

Q17: MAS seeks your views on the proposed transitional arrangements for REIT managers and their professional employees.

¹⁹ As per Form 3 of the Securities and Futures (Licensing and Conduct of Business) Regulations.

**APPENDIX A –
DEFINITION OF AN INTERESTED PARTY – ASSOCIATES**



Company	Interested party	
	Current definition	Proposed definition
A1	Yes	No
A2	Yes	Yes
A3	Yes	No
A4	No	Yes

**APPENDIX B –
PROPOSED CHANGES TO DEFINITIONS OF
INTERESTED PARTY, CONTROLLING UNITHOLDER AND ASSOCIATE**

	Current definition	Proposed definition [Aligned with SGX Listing Manual]
Interested Party [Para 1.2(f)]	<p>Interested party includes:</p> <ul style="list-style-type: none"> i) the sponsor/promoter of the property fund (if different from the manager)²⁰; ii) the manager of the property fund; iii) the trustee of the property fund; iv) the adviser to the property fund; v) a director, other than an independent director, of the sponsor/promoter, Manager or adviser (or an associate of any such director); vi) a controlling unitholder; or vii) in respect of the sponsor/promoter, Manager, adviser or controlling unitholder – <ul style="list-style-type: none"> (A) its ultimate/immediate holding company; (B) its subsidiary; (C) its associated company; (D) its fellow subsidiary; (E) where it is an associated company of another company, say, Company X – a subsidiary of Company X²¹; (F) its fellow associated company; (G) an associated company of its immediate holding company; (H) a subsidiary²² of the entity in sub-paragraph (B), (D) or (E); or (I) an associated company of the entity in sub-paragraph (B), (D) or (E). 	<p>Interested party means:</p> <ul style="list-style-type: none"> (a) a director/CEO of the manager, the manager, trustee or controlling unitholder of the property fund²³; or (b) an associate of any director/CEO of the manager, the manager, trustee or controlling unitholder.

²⁰ For the avoidance of doubt, an entity acting merely as a marketing or sales agent will not be considered a sponsor/promoter.

²¹ Where the sponsor/promoter, Manager or adviser is an associated company of more than one company, say, Company X and Company Y, all the subsidiaries of either Company X or Company Y will be considered as interested parties.

²² This term is capable of successive application. For example, Company A is a subsidiary of the promoter of the fund. If Company B is a subsidiary of Company A, and Company C is a subsidiary of Company B, then Company B and Company C (and so on) will be considered as interested parties.

²³ Sponsors of REITs have been removed since they may not always have a relationship with the REIT after listing. Even if a sponsor continues to have an interested party relationship with the REIT after listing, it will usually be in the capacity of a controlling unitholder or a manager, both of which are caught as interested parties under the current or proposed guidelines.

	Current definition	Proposed definition [Aligned with SGX Listing Manual]
Controlling Unitholder [Para 1.2(c)]	<p>Controlling unitholder means a person who, together with (where applicable) –</p> <p>(A) its ultimate/immediate holding company;</p> <p>(B) its subsidiary;</p> <p>(C) its associated company;</p> <p>(D) its fellow subsidiary;</p> <p>(E) where it is an associated company of another company, say, Company X – a subsidiary of Company X²⁴;</p> <p>(F) its fellow associated company;</p> <p>(G) an associated company of its immediate holding company;</p> <p>(H) a subsidiary²⁵ of the entity in sub-paragraph (B), (D) or (E); and</p> <p>(I) an associated company of the entity in sub-paragraph (B), (D) or (E),</p> <p>either</p> <p>(i) hold 15% or more of the units in the property fund (MAS may determine that such a person is not a controlling unitholder); or</p> <p>ii) hold less than 15% of the units in the property fund but in fact exercise control over the property fund.</p>	<p>A person who</p> <p>(a) holds directly or indirectly 15% or more of the nominal amount of all voting units in the property fund (MAS may determine that such a person is not a controlling unitholder); or</p> <p>(b) in fact exercises control over the property fund.</p>

²⁴ Where the sponsor/promoter, Manager or adviser is an associated company of more than one company, say, Company X and Company Y, all the subsidiaries of either Company X or Company Y will be considered as interested parties.

²⁵ This term is capable of successive application. For example, Company A is a subsidiary of the promoter of the fund. If Company B is a subsidiary of Company A, and Company C is a subsidiary of Company B, then Company B and Company C (and so on) will be considered as interested parties.

	Current definition	Proposed definition [Aligned with SGX Listing Manual]
Associates [Para 1.2(a)]	Associate of any director includes (i) any member of his immediate family; ²⁶ (ii) the trustee, acting in its capacity as a trustee, of any property fund of which the director or his immediate family is a beneficiary or, in the case of a discretionary trust, is a discretionary object; and (iii) any company in which he and his immediate family together (directly or indirectly) have an interest of 25% or more.	Associate – (a) in relation to any director/CEO of the manager or controlling unitholder (being an individual), means (i) his immediate family; (ii) the trustees of any trust of which he and his family is a beneficiary or, in the case of a discretionary trust, is a discretionary object; and (iii) any company in which he and his family together (directly or indirectly) have an interest of 30% or more; or (b) in relation to a controlling unitholder, manager or trustee (being a company) means any other company which is its subsidiary or holding company or is a subsidiary of such holding company or one in the equity of which it and/or such other company or companies taken together (directly or indirectly) have an interest of 30% of more.

²⁶ This refers to his wife, child, adopted child, stepchild, brother, sister and parent.

**APPENDIX C –
DRAFT SECURITIES AND FUTURES ACT (AMENDMENT OF SECOND
SCHEDULE AND OTHER PROVISIONS TO ACT FOR REIT
MANAGEMENT) ORDER 2007**

DISCLAIMER: This version of the Order is in draft form and subject to change.

No. S 000 —

SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES ACT
(AMENDMENT OF SECOND SCHEDULE AND OTHER
PROVISIONS TO ACT FOR REIT MANAGEMENT)
ORDER 2007

In exercise of the powers conferred by section 340(1) and (2) of the Securities and Futures Act, the Senior Minister hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Securities and Futures Act (Amendment of Second Schedule and Other Provisions to Act for REIT Management) Order 2007 and shall come into operation on 2007.

Amendment of Second Schedule

2. The Second Schedule to the Securities and Futures Act is amended —

(a) by inserting, immediately after paragraph (e) of Part I, the following paragraph:

“(ea) real estate investment trust management;”;

(b) by deleting the definition of “fund management” in Part II and substituting the following definition:

““fund management” means undertaking on behalf of a customer (whether on a discretionary authority granted by the customer or otherwise) —

- (a) the management of a portfolio of securities or futures contracts; or
- (b) foreign exchange trading or leveraged foreign exchange trading for the purpose of managing the customer’s funds,

but does not include real estate investment trust management;” and

(c) by inserting, immediately after the definition of “providing custodial services for securities” in Part II, the following definition:

““real estate investment trust management” means managing or operating a collective investment scheme —

- (a) that is a trust;

- (b) that invests only in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes; and
- (c) all or any units of which are listed for quotation on a securities exchange;”.

Incidental, consequential or supplementary provisions to Act

3. The provisions of the Securities and Futures Act specified in the first column of the Schedule are amended in the manner set out in the second column thereof.

THE SCHEDULE

Paragraph 3

<i>First column</i>	<i>Second column</i>
(1) Section 2(1)	<p>Insert, immediately after the definition of “quote”, the following definition:</p> <p style="padding-left: 40px;">““real estate investment trust management” has the meaning given to it in the Second Schedule;”.</p>
(2) Section 4A(1)	<p>Insert, immediately after sub-paragraph (C) of paragraph (c)(ix), the following sub-paragraph:</p> <p style="padding-left: 40px;">“(CA) real estate investment trust management;”.</p>
(3) Section 130(2)	<ul style="list-style-type: none"> (i) Delete the word “or” at the end of paragraph (a)(ii). (ii) Delete the word “and” at the end of paragraph (a)(iii) and substitute the word “or”. (iii) Insert, immediately after sub-paragraph (iii) of paragraph (a), the following sub-paragraph: <ul style="list-style-type: none"> “(iv) a holder of a capital markets services licence for real estate investment trust management and a representative of such a holder; and”.
(4) Section 286(3)	<p>Delete paragraph (a) and substitute the following paragraph:</p> <p style="padding-left: 40px;">“(a) the manager of the scheme is —</p> <ul style="list-style-type: none"> (i) in the case of a collective investment scheme — <ul style="list-style-type: none"> (A) that is a trust;

*First column**Second column*

- (B) that invests only in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes; and
 - (C) all or any units of which are listed for quotation on a securities exchange,
the holder of a capital markets services licence for real estate investment trust management; and
- (ii) in all other cases, the holder of a capital markets services licence for fund management or a person exempted under section 99(1)(a), (b), (c) or (d) in respect of fund management; and”.

Made this day of 2007.

PETER HO
*Permanent Secretary,
(Special Duties)
Prime Minister’s Office,
Singapore.*

**APPENDIX D –
DRAFT SECURITIES AND FUTURES (LICENSING AND CONDUCT OF
BUSINESS) (AMENDMENT) REGULATIONS 2007**

DISCLAIMER: This version of the Regulations is in draft form and subject to change.

No. S 000 -

SECURITIES AND FUTURES ACT
(CHAPTER 289)
SECURITIES AND FUTURES
(LICENSING AND CONDUCT OF BUSINESS) (AMENDMENT)
REGULATIONS 2007

In exercise of the powers conferred by sections 85, 100 and 341 of the Securities and Futures Act, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2007 and shall come into operation on 2007.

Amendment of regulation 6

2. Regulation 6 of the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10) is amended—

(a) by inserting, immediately after sub-paragraph (b) of paragraph (2), the following sub-paragraph:

“(ba) for real estate investment trust management, \$4,000;”;

(b) by inserting, immediately after sub-paragraph (b) of paragraph (4), the following sub-paragraph:

“(ba) where the licence relates to real estate investment trust management, \$300;”.

New regulations 59 and 60

3. The Securities and Futures (Licensing and Conduct of Business) Regulations are amended by inserting, immediately after regulation 58, the following regulations:

“Persons exempted from holding a capital markets services licence to carry on business in fund management under section 99(1)(h) immediately before [date]

59. Any person who, immediately before [date], was exempted by the Authority from the requirement to hold a capital markets services licence to carry on business in fund management in respect of the management of a collective investment scheme —

-
- (a) that is a trust;
 - (b) that invests only in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes; and
 - (c) all or any units of which are listed for quotation on a securities exchange,

shall be exempt from the requirement under the Act to hold a capital markets services licence to carry on business in such activity —

- (i) for a period of 6 months from [date]; or
- (ii) if, before the expiry of the period of 6 months, he applies for a capital markets services licence for that activity or for activities which include that activity, until the date on which the licence is granted to him, or on which his application is refused or withdrawn,

whichever is the later.

Persons carrying on business in real estate investment trust management

60.—(1) Any person who, immediately before [date], was carrying on business in real estate investment trust management, being a person falling within section 286(3)(a)(ii) of the Act, shall not be required to hold a capital markets services licence to carry on business in real estate investment trust management for a period of 6 months from [date] or until he ceases business in such regulated activity, whichever is the earlier.

(2) Paragraph (1) shall not apply to any person referred to in regulation 59.”.

[G.N. No. S 373/2005; S 404/2005]

Made this day of 2007.

HENG SWEE KEAT
Managing Director,
Monetary Authority of Singapore.

**APPENDIX E –
DRAFT SECURITIES AND FUTURES (FINANCIAL AND MARGIN
REQUIREMENTS FOR HOLDERS OF CAPITAL MARKETS SERVICES
LICENCES) (AMENDMENT)
REGULATIONS 2007**

DISCLAIMER: This version of the Regulations is in draft form and subject to change.

No. S 000 -**SECURITIES AND FUTURES ACT
(CHAPTER 289)****SECURITIES AND FUTURES
(FINANCIAL AND MARGIN REQUIREMENTS
FOR HOLDERS OF CAPITAL MARKETS SERVICES LICENCES)
(AMENDMENT) REGULATIONS 2007**

In exercise of the powers conferred by sections 86(3), 100 and 341 of the Securities and Futures Act, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2007 and shall come into operation on 2007.

Amendment of First Schedule

2. The First Schedule to the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations (Rg 13) is amended, by inserting, immediately after item (5) of paragraph 2, the following item:

“(5A) Real estate investment trust management \$1 million”.

Amendment of Third Schedule

3. Paragraph 6(2) of the Third Schedule to the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations is amended by deleting sub-paragraph (e) and substituting the following sub-paragraph:

“(e) the holder of a capital markets services licence under the Act to deal in securities or trade in futures contract, or for fund management or real estate investment trust management;”.

[G.N. Nos. S 372/2005; S 78/2006; S 507/2006]

